

Order

Michigan Supreme Court
Lansing, Michigan

October 6, 2010

Marilyn Kelly,
Chief Justice

140641 & (16)

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 140641
COA: 294318
Wayne CC: 93-004008

ROGER CARLOS RAY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the January 6, 2010 order of the Court of Appeals is considered, and it is DENIED. The motion to remand is also DENIED. The defendant's motion for reissuance of judgment was predicated on MCR 6.428, which has no application to the facts of this case. The defendant fails to establish that this rule applies retroactively to his 1993 judgment of sentence. In any event, by its plain terms, MCR 6.428 applies only "[i]f the defendant did not appeal within the time allowed by MCR 7.204(A)(2)," and the rule is otherwise directed exclusively at perfecting a timely appeal of right. The defendant did, in fact, appeal within the time allowed by MCR 7.204(A)(2)(a) because he timely requested the appointment of appellate counsel, and a claim of appeal/order appointing counsel was issued by the circuit court, as contemplated by MCR 6.425(G)(3). Entry of such an order "constitutes a timely filed claim of appeal for the purposes of MCR 7.204," MCR 6.425(G)(3), as it did under the court rules in effect in 1993.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 6, 2010

Corbin R. Davis

Clerk